

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO: 16-50325

HON. VICTORIA A. ROBERTS

v.

ALBERT LEE WILLIAMS,

Defendant.

**ORDER DENYING DEFENDANT'S REQUEST FOR HEARING ABOUT THE
GARNISHMENT AND CLAIM FOR EXEMPTIONS (ECF NO. 5)**

Before the Court is Defendant Albert Lee Williams' Request for a Hearing about the Garnishment and Claim for Exemptions. The request is **DENIED**.

On January 13, 2016, Williams entered into a plea agreement and was convicted of Use of Counterfeit Access Devices, Aggravated Identify Theft and Bank Fraud. He received a sentence of 64 months imprisonment and 24 months probation. Williams was ordered to pay a total of \$102,397.38. He still owes the full amount.

Williams requests a hearing because he says property has been sold to satisfy the judgment and a financial payment has been agreed to. In an attached letter, Williams references a property located at 265 Dellwood Ave in Pontiac, Michigan.

The Government says: (1) the current garnishment pertains only to future tax refunds and does not affect Williams' income stream; (2) by statute there are only three issues that can be addressed at a garnishment hearing and Williams has not asserted a

valid basis to quash the garnishment.

The Court ordered the Government to submit supplemental briefing and address what exactly the Government is attempting to garnish. If it is only future tax refunds, the Court asked how Williams was notified. Secondly, the Court ordered the Government to address whether future tax refunds are exempt from garnishment. Finally, the Court ordered the Government to respond to Williams' claimed exceptions for the properties sold.

The Court is satisfied that the Government applied for and received a writ of garnishment to attach to payments made to Williams from the State of Michigan, Department of Treasury. Although the Government did not specifically provide a separate notice to Williams that his income tax refund would be garnished, several documents in the record, including the application for writ of garnishment, requests for hearing, and certificates of service, all identify the State of Michigan, Department of Treasury.

Assets that are exempt from garnishment are identified by statute. 18 U.S.C. § 3613(a). These exemptions are listed on the form Williams filled out for the purpose of requesting a garnishment hearing. Williams said he believes that his property cannot be garnished, and checked boxes for: (1) wearing apparel and school books; (2) fuel, provisions, furniture and personal affects; (3) books and tools of a trade, business, or profession; (4) judgments for support of minor children; and (5) minimum exemptions for wages, salary and other income.

Tax refunds are not identified as an exemption from garnishment. 18 U.S.C. § 3613(a) and 26 U.S.C. §6334(a). The only section of exemptions that may cover tax

refunds is “minimum exemptions for wages, salary and other income.” 26 U.S.C. §6334(a)(9). While some forms of income, such as some disability benefits, would be except, a “...tax refund, based on taxes withheld as the result of employment, is not.” *United States v. Henderson*, No. 13-15146, 2014 WL 4209936, at *1 (E.D. Mich. Aug. 26, 2014).

As the defendant contesting garnishment, Williams bears the burden to show he is entitled to an exemption. *Id.* (Citing *United States v. Sawaf*, 74 F.3d 119, 121 (6th Cir. 1996)). He has not done so. Additionally, Williams has not sufficiently stated his financial circumstances to provide a basis for economic hardship. As noted by the Government, if any properties have been sold to satisfy the judgment, Williams has not provided documentation showing the outstanding balance due as restitution is incorrect.

Williams’ Request for a Hearing is **DENIED**.

IT IS ORDERED.

S/Victoria A. Roberts
United States District Judge

Date: June 8, 2016